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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,688	11/15/2001	Abraham Z. Reznick	01/22308	7185

7590 06/24/2003

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EXAMINER

WALLS, DIONNE A

ART UNIT PAPER NUMBER

1731

DATE MAILED: 06/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/987,688

Applicant(s)

REZNICK ET AL.

Examiner

Dionne A. Walls

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) 1-34, 42, 47, 50, 55, 56 and 61-94 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 35-41, 43-46, 48, 49, 51-54 and 57-60 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election of a filter species (claims 35-41, 43-46, 48-49, 51-54 and 57-60) in Paper No. 9 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Priority

2. If applicant desires priority under 35 U.S.C. 119(e) based upon a previously filed provisional Application, specific reference to the earlier filed application must be made in the first line/sentence of the instant specification.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 35-37, 43-46, 48-49, 51, and 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teufel et al (US. Pat. No. 6,145,511).

Teufel et al discloses a filter, for use in a cigarette (corresponding to the claimed "tobacco smoke filter"), that can contain Vitamin B12 (see col. 5, lines 9-35). While

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Teufel may not specifically state that Vitamin B12 is "hydrocobalamin", it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize hydrocobalamin as the Vitamin B12 source since it is well-known that this substance is the naturally occurring, and most popular, form of the Vitamin B12.

Also, Vitamin B12 is a well-known antioxidant, thus satisfying the limitations of claims 46 and 60.

Lastly, it follows that that hydrocobalamin would inherently function to reduce/prevent tobacco smoke-associated loss of peroxidase activity in the aerodigestive tract and/or death of cells in the digestive tract since this substance satisfies the dependent claims 37, 46, 51, and 60.

5. Claims 38-41 and 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stavridis et al (US. Pat. No. 5,909,736).

Stavridis et al discloses a cigarette filter enriched with biological substances that are capable of withholding the compounds which are responsible for the damaging effect of cigarette smoke on the respiratory and cardiovascular systems. Further, Stavridis teaches that treatment of animals with the iron chelator, deferoxamine, has been known to suppress the development of lung injury (col. 15, line 47 – col. 16, line 6). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include, in the cigarette filter of Stavridis et al, this substance – deferoxamine – in order to reduce the damage of cigarette smoke to the respiratory, and other, systems. Also, it follows that use of this compound would also, inherently,

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prevent death of cells in the digestive tract since, inevitably, a portion of cigarette smoke would contact said tract during smoking a cigarette.

6. Claims 43-46, and 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hersh et al (US. Pat. No. 5,829,449).

Hersh et al discloses a composition for inclusion within a cigarette filter which includes glutathione (corresponding to the claimed "antioxidant"). It follows that that glutathione would inherently function to reduce/prevent tobacco smoke-associated death of cells in the aerodigestive tract since this substance satisfies the dependent claims 46 and 60.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne A. Walls whose telephone number is (703) 305-0933. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-

0661.


Dionne A. Walls

June 20, 2003